

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH**

**OA No. 668 of 2015**

**Present:** Hon'ble Mr. Swarup Kumar Mishra, Member (J)  
Hon'ble Mr. Trarun Shridhar, Member (A)

Manoj Kumar Behera, aged about 32 years, S/o Late Mohan Sundar Behera, At-Nagari, PO-Mahidhara Pada, PS-Cuttack Sadar, Dist.-Cuttack.

.....Applicant

## VERSUS

1. Navodaya Vidyalaya, an Autonomous Organization under Ministry of HRD (Department of School Education & Literacy) Government of India, Regional Office, A-135/A, Alkapuri, Habibganj, Bhopal (MP)-462024.
2. Commissioner, Navodaya Vidyalaya Samiti, A-135/A, Alkapuri, Habibganj, Bhopal (MP)-462024.
3. Principal, Jawahar Navodaya Vidyalaya, Nayagarh, At-Nayagarh, PO-Nabaghanapur, Via-Nayagarh Bazar, Dist-Nayagarh.
4. Dipal Krushna Patalasingh, S/o Damodar Patalasingh, At/PO-Kerandatangi, Dist-Nayagarh.

## .....Respondents

For the applicant: Mr.D.Mishra, counsel

For the respondents: Mr.A.K.Mohapatra, counsel

Heard & reserved on : 17.12.2020 Order on :

## ORDER

**Per Mr.Swarup Kumar Mishra, J.M.**

The applicant has filed the present application under Section 19 of the Administrative Tribunals' Act, 1985 seeking the following reliefs :

- “(a) let be declared that the merit list for recruitment of the post of Electrician-cum-Plumber under annexure-8 is illegal, bad in law and appointment of the respondent No.4 in the said post is also illegal;
- (b) let the applicant be appointed in the said post in place of respondent No.4;
- (c) any other relief(s) be deemed fit and proper in favour of the applicant.”

2. The facts of the case in brief are that the applicant applied for the post of Electrician-cum-Plumber (ECP in short) for which recruitment process was held during 2013-14. The trade test was conducted at Govt. ITI, Bhubaneswar on 16.1.2014 as per the Recruitment Rules of the Navodaya Vidyalaya Samiti. The minimum essential qualification prescribed for the post of ECP is Class X

pass, ITI certificate or equivalent in the trade of Electrician or Wireman from a recognized institute with at least two years' experience in Electrical installation and wiring. Thereafter the merit list of the candidates who qualified in the trade test was finalized and proposal for appointment was submitted to NVS, RO Bhopal. In the final merit list (Annexure 8) the applicant was placed at Sl.No.2 and the name of respondent No.4 was placed at Sl.No.1. The applicant has averred that though he has submitted his experience certificates along with his educational certificates, the appointing authority had not taken into consideration his experience certificate with malafide intention to appoint respondent no.4 who was already working in the said Vidyalaya. The applicant has submitted that he has gathered all information through RTI and hence the present OA.

3. Respondents have filed their Counter in which they have not denied the factual aspect of this case upto the stage of sending the merit list to NVS, RO, Bhopal. It is submitted that on scrutiny of the proposal, applications of two candidates were rejected on the ground of not possessing the valid Employment Exchange Registration which was not in conformity with the relevant rules. Accordingly the competent authority rejected the proposal and returned the same with a direction to re-initiate the process afresh from the stage of trade test allowing those candidates also who were deprived from appearing for trade test on the aforesaid grounds. The process was re-initiated accordingly and the trade test was conducted afresh at Govt. Polytechnic Odagaon, Nayagarh on 27.10.2014. Thereafter Vidyalaya Appointment Committee (VAC) convened the meeting and prepared the merit list for nine qualified candidates and sent to NVS, RO Bhopal. After the approval was conveyed the Principal, JNV, Nayagarh issued offer of appointment to Dipal Krushana Patalasing, respondent No.4, who stood first in the merit list on 31.12.2014 and he joined duty on 3.1.2015.

It is also stated by the respondents that the applicant has stated that he has worked at ATO in electrician trade from 5.8.2007 to 25.2.2010 in Venus Industrial Training Center (VITC), Cuttack. He has annexed a certificate under Annexure 4 series, to that effect. But the same is not correct. The applicant has

submitted a work experience certificate issued by VITC, Cuttack dated 25.1.2011 while submitting application for the post of ECP wherein it is stated that the applicant has worked from 5.8.2007 to 25.1.2011. Therefore the applicant has tried to mislead this Tribunal by filing another certificate dated 23.8.2013 and the genuineness of the same is to be proved by the applicant. Moreover, the applicant has stated to have worked as Maintenance Electrical Technician w.e.f. 1.8.2005 to 31.7.2007 in Nutricraft India Private Limited which is a private company. As per Samiti's guideline, weightage for relevant experience in a Govt./Autonomous Organization along was to be given (Annexure R1/2). Besides this he has stated to have worked as ATO in VITC, Cuttack from 5.8.2007 to 25.1.2011 and as ATO w.e.f. 10.3.2010 to 1.1.2011 in Ganesh Institute of Engineering & Technology Industrial Training Centre (Annexure R1/4) which is not related to the working field of duty attached to the qualification of ECP. Therefore experience at Nutricraft India Private Limited was counted but weightage for his service from 1.8.2005 to 31.7.2007 in that private company was not awarded as per Recruitment Rules of Samiti.

The applicant has also contended that he is more meritorious than respondent No.4. But the fact is that both the candidates fulfill the eligibility conditions and passed the trade test. However, while drawing the merit list based on the weightage of marks prescribed in the Recruitment Rules, respondent No.4 ranked higher in merit than the applicant by virtue of possessing experience in a Govt./Autonomous organization and therefore respondent No.4 was selected for the post of ECP and consequent upon due approval from the competent authority, he was offered appointment. In view of the above facts, the respondents have prayed for dismissal of the present OA being devoid of merit.

4. Additional counter has been filed by the respondents wherein it is stated that in order to ascertain the genuineness of work experience certificate submitted by the applicant, a letter was sent by respondent No.3 dated 21.1.2016 by registered post to the Nutricraft India Private Limited and the same was returned by the Postal Department with a note "Addressee not

found". Further a similar letter was sent to the Head Office of the company namely Nutricraft India Private Limited on 27.1.2016 by respondent No.3. Reply to this effect was sent by the company vide letter dated 3.2.2016 which clearly stated that the applicant was not an employee of Nutricraft India Private Limited at any point of time. From this fact it is evident that the applicant has committed a criminal offence by producing forged and fabricated certificate and therefore his candidature stood cancelled.

5. Respondent No.4 has also filed Counter affidavit stating that he has passed Class X with 61.4%, Class XII with 49.8% and completed ITI training in the trade of Electrician with 87.5%. Besides that he was working as an Electrician on part time basis in GOWTHAMI Infratech Private Limited, Hyderabad from 1.2.2011 to 15.9.2011 and attaining works in connection to rural electrification under RGGVI scheme at Phulbani Project Office. He also joined Jawahar Navodaya Vidyalaya, Nayagarh on 21.9.2011 as Electrician on daily wage basis and was in charge of handling electrical appliances and generator set available in the Vidyalaya as well as to look into smooth water and electricity supply with admissible breaks from time to time. He was working under a Central Govt. organization and had 18 months working experience in his credit in 2013. For this he was given extra one mark and he secured highest mark in the selection. Therefore respondent No.4 being a better candidate with requisite qualification and experience was selected for the post. He has also prayed for dismissal of the OA being devoid of merit. He has relied upon the judgment of Hon'ble Supreme Court in the case of Madras Institute of Development Studies and Anr. –vs- K. Sivasubramaniyan & Ors. [(2016) 1 SCC 454] in support of his case.

6. Applicant has filed Rejoinder, Additional Rejoinder and reply to the Additional Counter filed by respondent No.4 reiterating the facts stated in the OA.

7. We have gone through the pleadings and submissions made by learned counsels for both sides and also the citations relied upon by them.

8. At present there is no material to show if any irregularity has been committed by the respondents in re-initiating the selection process from the stage of trade test, since earlier applications of two candidates were rejected for not possessing the valid employment exchange registration. There is no such requirement that the applications submitted by other persons not being sponsored by the employment exchange or not having any employment exchange registration cannot be considered for the purpose of considering their applications for selection in question. The stand taken by the respondents in the counter affidavit reveals that respondent No.4 who is applicant in OA 410/2017 was placed at Sl. No. 1 and the present applicant was placed at Sl. No.2 in the final list vide Annexure A/8. The merit list is dated 31.12.2014 and Respondent No.4 joined his duty on 3.1.2015. As per the order passed separately today in OA 410/2017 in which respondent No. 4 of this case is the applicant, it has been found that the respondent No. 4 is still continuing in the said job. This Tribunal has also directed for consideration of the matter in the said OA within a period of three months and has directed that the status quo as on today shall be maintained till a decision in this regard is taken by the respondents in OA 410/2017.

9. The present applicant expects that he will be selected for the post in question in case respondent No.4 is removed from the job. Besides that the action of the official respondents in cancelling his candidature on the ground that he does not possess genuine certificate of experience, has been challenged by the applicant. If the fact about the genuineness of the certificate produced by the applicant was brought to the notice of the respondents, it was incumbent on their part to inform the applicant and obtain his reply in that regard before taking any unilateral steps in that regard. Therefore it is expected that official respondents should have upheld the principle of natural justice and ought to have given opportunity to the applicant to make his stand clear in that aspect and that having being not done, the action of the department in rejecting his candidature cannot be found to be justified.

10. This Tribunal desires that principle of natural justice should be followed by giving an opportunity to the applicant to make his stand clear in this regard. Accordingly the respondents are directed to give due opportunity to the applicant to make his stand clear with regard to the experience certificate furnished by him so that official respondents can arrive at conclusion as to whether the said certificates are genuine or not in accordance with law.

11. The OA is accordingly disposed of with direction to official respondents to comply with said direction given in above paras within a period of three months from the date of receipt of the copy of this order. Further action if any, to be taken by the respondents will depend upon the result of the decision taken in respect of private respondent No.4 whose case OA 410/2017 is being disposed of today by passing a separate order. There will be no order as to costs.

(TARUN SHRIDHAR)  
MEMBER (A)

(SWARUP KUMAR MISHRA)  
MEMBER (J)

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